

SPECIAL CIVIL APPLICATION No 2048 of 1989

Hon'ble MR.JUSTICE C.K.THAKKAR

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

MR M.A.BUKHARI ,AGP FOR M/S PATEL ADVOCATES for Respondent No. 1

ORAL JUDGEMENT

This petition is filed by the petitioners for an

appropriate writ, order or direction quashing and setting aside the demand notice issued by the Mamlatdar (Recovery), respondent No.2 herein by which the petitioners were called upon to pay an amount of Rs. 5,000/- failing which it was threatened that the same will be recovered as arrears of land revenue.

The case of the petitioners was that petitioner No.1 was admitted to a medical course in 1972 on his executing a bond of Rs. 5,000/- that after becoming doctor, he would serve two years in a rural area. He was then admitted in B.J.Medical College, Ahmedabad. Petitioner No.2 stood surety for petitioner No.1 for the said amount. It was the case of the petitioners that a bond was executed by him in the year 1972 though he did not recollect the actual date on which the bond was executed. Petitioner No.1 completed M.B.B.S. course in 1977 and successfully underwent internship in 1978. For about 9 years, nothing was done in the matter and petitioner No.1 was ready to serve as per the bond. He was not asked to serve in any rural area. In fact, through Union Public Service Commission, he got job in Central Government Health Scheme and also made permanent. Only by the impugned notice in the year 1989, petitioners were called upon to pay an amount of Rs. 5,000/- failing which the amount would be recovered as arrears of land revenue. Against the said action, the petition is filed.

Rule was issued and interim relief in terms of para 15 (B) was granted as early as on March 23, 1989. Para 15 (B) reads as under :

(15 (B) That pending the hearing and final disposal of this Special Civil Application , execution, operation and further proceedings including recovery of the amounts specified in the bond or any other amount from the petitioners pursuant to the notice of demand Annexure 'B' and 'C' hereto be stayed."

Today, the matter is called out for final hearing.

Several contentions were raised by Mr. V.C.Desai for the petitioners. It was, however, contended that petitioner No.1 had completed his M.B.B.S.course in 1977 and internship in 1978. Though he was ready and willing to serve in rural area, he was not offered employment. Even thereafter also, he was employed by the Government and he was in service of Government. After about a decade, he

was called upon to pay an amount of Rs. 5,000/- and a notice was issued. Petitioner No.2 was surety. He was also called upon to pay the said amount.

In the facts and circumstances, in my opinion, apart from the fact that petitioner No.1 was not asked, at the relevant time, to serve in rural area and he had refused, even otherwise also, the period of one decade after issuance of bond is unduly long and unreasonable. In the circumstances, the notice issued on 14th February 1989 asking them to pay Rs. 5,000/- cannot be said to be legal and valid and must be set aside.

The petition, therefore, deserves to be allowed and is accordingly allowed. Notice dated 14th February 1989 is set aside. Rule is made absolute. No order as to costs.

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